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Attorney for Debtor
ELEAZAR SALAZAR

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

In Regards:

ELEAZAR SALAZAR,

Debtor.

U.S. Bank National Association, as Trustee
for the C-BASS Mortgage Loan Asset-
Backed Certificates, Series 2006-CB2, its
assignees and/or successors,

Movant,

versus

Eleazar Salazar, Debtor; David L. Skelton,
Chapter 13 Trustee,

Respondents.

In Proceedings Under Chapter 13

Case Number: **10-17456-MM13**

**EMERGENCY MOTION FOR
PRELIMINARY INJUNCTION
AGAINST US BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR THE
C-BASS MORTGAGE LOAN ASSET-
BACKED CERTIFICATES, SERIES
2006-CB2, ITS ASSIGNEES AND/OR
SUCCESSORS AND MIKE WHITE
CONSTRUCTION CO.; DECLARATION
OF FRANCISCO J. ALDANA;
DECLARATION OF MARY SALAZAR,
DECLARATION OF ELEAZAR
SALAZAR [PROPOSED] ORDER**

Honorable Judge: **Margaret M. Mann**

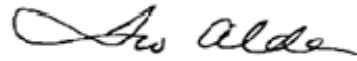
Debtor ELEAZAR SALAZAR (hereafter "Debtor") hereby moves this court for a

1 preliminary injunction staying any actions that US BANK NATIONAL ASSOCIATION,
2 AS TRUSTEE FOR THE C-BASS MORTGAGE LOAN ASSET-BACKED
3 CERTIFICATES, SERIES 2006-CB2, ITS ASSIGNEES AND/OR SUCCESSORS ("US
4 BANK") and MIKE WHITE CONSTRUCTION CO. ("CONSTRUCTION CO.") and any
5 agents, servants, employees, successors, attorneys, and all persons in active concert and
6 participation with them, from engaging in or performing any act to deprive Debtor of his
7 residence in and possession of the real property located at **1268 Emerald Way, Calexico,**
8 **California 92231** (the "Subject Property") or in any other way act against Debtor or
9 Debtor's property.

10 This motion is based the memorandum of law and the declarations submitted
11 herewith. Due to the emergency nature, it is an abbreviated motion.

12 September 9, 2011

THE ADVOCATES' LAW FIRM, LLP

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17 FRANCISCO J. ALDANA
18 Attorney for Plaintiff
19 ELEAZAR SALAZAR
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On September 9th, 2011 at or about 10:15 a.m., Debtor's daughter and ex-wife, were at home. His daughter, Mary Salazar, heard someone attempting to break into the house. She went to the door to investigate and was shocked to find two men attempting to change the locks on their home. Mary Salazar's mother was there and they both became very frightened. They immediately called Attorney Aldana, and Debtor. Debtor rushed home from the post office after he was told that CONSTRUCTION CO. was there on behalf of the creditor, U.S. BANK, attempting to change the locks on the house.

This situation should not have occurred as Debtor has an automatic stay imposed due to ongoing bankruptcy proceedings, and CONSTRUCTION CO.'s efforts to lock Debtor out of his property are a direct violation of the quintessential purpose of bankruptcy protection – the automatic stay.

Debtor is currently in bankruptcy proceedings for Chapter 13 relief in the Southern District Bankruptcy Court, Case No.: 10-17456-MM13. US BANK filed a Motion for Relief from Stay on October 26, 2011, which was denied on January 25, 2011. US BANK filed an appeal on the matter on April 22, 2011, which is still in litigation. The stay is currently in effect as to the Subject Property and any effort on US BANK's part to deprive Debtor of the Subject Property is in direct violation of that stay.

As US BANK is being represented by counsel, they are fully aware of said stay and have purposely and egregiously violated said stay. In light of all the litigation in this case, it is beyond comprehension that US BANK would direct anyone to change the locks on the Subject Property.

II. ARGUMENT

a. Debtor has a Stay Imposed Under Bankruptcy Code § 362

Under Bankruptcy Code § 362, a petition operates as an automatic stay to all entities of:

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

(7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and

(8) the commencement or continuation of a proceeding before the United States Tax Court concerning the debtor.

US BANK's application for relief from the automatic stay was denied, and so the stay is still in place with regards to the Subject Property. No attempts to gain possession of the Subject Property are to be initiated until the stay is lifted, which is has not been.

b. Debtor is Entitled to Injunctive Relief and Sanctions

As there is a stay in this matter, neither US BANK nor any other party may act against Debtor to take away any of his property. US BANK was fully aware of this stay yet acted deliberately and intentionally against Debtor to deprive him of his property. If injunctive relief is not granted, Debtor will be irreparably harmed, as he will lose his home. Debtor therefore makes this application to restrict US BANK, CONSTRUCTION CO., and any of its agents, servants, employees, successors, attorneys, and all persons in active concert and participation with them, from engaging in or performing any act to deprive

1 Debtor of his residence in and possession of the Subject Property or to in any other way act
2 against Debtor or Debtor's property.

3 Due to US BANK's knowledge of the stay and subsequent intentional violation
4 thereof, Debtor is entitled to receive sanctions against US BANK. Debtor therefore asks
5 this Court to set a hearing date for the sanctions.

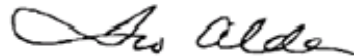
6 **III. CONCLUSION**

7 Debtor respectfully request that the Court grant immediate injunctive relief against
8 US BANK and CONSTRUCTION CO. and award sanctions to Debtor for the violation of
9 the bankruptcy stay.

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11 Respectfully submitted,

12 September 9, 2011

THE ADVOCATES' LAW FIRM, LLP

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16 Francisco J. Aldana, Esq.
17 Attorney for Debtor
18 ELEAZAR SALAZAR
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DECLARATION OF FRANCISCO J. ALDANA

I, Francisco J. Aldana, declare as follows:

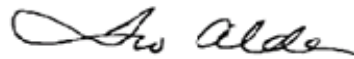
1. I am an attorney licensed to practice before all the courts of the State of California.
I am the attorney of record for Plaintiff ELEAZAR SALAZAR.
2. I have personal knowledge of the matters set forth herein, and if called as a witness, I could testify competently thereto.
3. I write this declaration in support of Debtor's Emergency Motion for Preliminary Injunction.
4. I received a telephone call from Debtor's daughter asking what she should do, since there were people trying to change the locks on the Subject Property. I advised her that such actions were illegal and that she should call the police.

NOTICE TO US BANK

5. I caused my staff to give notice to US BANK'S attorney by calling Roshni Patel at (619) 685-4800 at 3:42 p.m. and leaving a message regarding this motion after there was no answer.

I declare the foregoing is true and correct under the laws of the State of California.

Executed this 9th day of September 2011.



Francisco J. Aldana

DECLARATION OF MARY SALAZAR

I, Mary Salazar, declare as follows:

1. I am over the age of 18 years and I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I can and will testify competently thereto.
2. I have personal knowledge of the matters set forth herein, and if called as a witness, I could testify competently thereto.
3. I live with my father, Debtor ELEAZAR SALAZAR.
4. On September 9, 2011 at 10:15 a.m., I was inside the house when I heard noises and saw a couple men at the door. I was worried and thought they might be burglars, as I was not expecting anyone and did not know what they were doing with the door. I approached cautiously only to find that CONSTRUCTION CO. was attempting to change the locks. My father was not at the house at the time but was at the post office.
5. I immediately called attorney Francisco J. Aldana, who advised me that what they were doing was illegal and to call the police. Before calling the police, I approached CONSTRUCTION CO. and told them that it was unlawful for them to change the locks. They hastily gave me a business card, but as I was attempting to elicit further information from them, they took off in their vehicle.
6. Attached as Exhibit "A" is the business card CONSTRUCTION CO. gave me.
7. I made a police report log, log number C11-15191, with the City of Calexico Police Department.

I declare the foregoing is true and correct under the laws of the State of California.

Executed this 9th day of September 2011, at Calexico, CA.



Mary Salazar

Exhibit "A"

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Reported

10:15 AM

FRIDAY SEPT. 9TH 2011

TRYING TO CHANGE LOCKS TO
my
HOME.

353-4871
El Centro, CA



Mike White Construction Co.

CUSTOM HOMES - CABINETS - REMODELING
STATE LICENSE #329906

MIKE WHITE
Owner

Called Police 10:18 AM



Calexico
Police Department

By: MALIN

420 East Fifth Street
Calexico, CA 92231
Bus.: (760) 768-2140 Fax.: (760) 357-1241

CR# _____

DECLARATION OF ELEAZAR SALAZAR

I, Eleazar Salazar, declare as follows:

1. I am over the age of 18 years and I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I can and will testify competently thereto.
2. I have personal knowledge of the matters set forth herein, and if called as a witness, I could testify competently thereto.
3. I live with my daughter, Mary Salazar.
4. My daughter informed me that on September 9, 2011, at 10:15 a.m., she was inside the house when she heard noises and saw a couple men at the door. She was worried and thought they might be burglars, as she was not expecting anyone and did not know what they were doing with the door. She approached cautiously only to find that CONSTRUCTION CO. was attempting to change the locks. I was not there as I was at the post office.
5. My daughter immediately called attorney Francisco J. Aldana, who advised her that what they were doing was illegal and to call the police. Before calling the police, she approached CONSTRUCTION CO. and told them that it was unlawful for them to change the locks. They hastily gave her a business card, but as she was attempting to elicit further information from them, they took off in their vehicle.
6. I am afraid they will come back at any time when no one is home and there activity must be stopped for me to be protected by the automatic stay.

I declare the foregoing is true and correct under the laws of the State of California.

Executed this 9th day of September 2011 at Calexico, CA.



Eleazar Salazar

I, JOANNA DISCAR, declare that I am, and was that the time of service of the

1 papers herein referred to, over the age of 18 years, and not a party to this action; and I
2 am employed in the County of San Diego, California, within which county the subject
3 mailing occurred. My business address is 600 B Street, Suite 2130, San Diego, CA
4 92101.

5 On the date of execution of this Certificate of Service identified below, I served a
6 true copy of the following documents:
7

8 **EMERGENCY MOTION FOR PRELIMINARY INJUNCTION AGAINST US BANK**
9 **NATIONAL ASSOCIATION, AS TRUSTEE FOR THE C-BASS MORTGAGE LOAN**
10 **ASSET-BACKED CERTIFICATES, SERIES 2006-CB2, ITS ASSIGNEES AND/OR**
11 **SUCCESSORS AND MIKE WHITE CONSTRUCTION CO.; DECLARATION OF**
12 **FRANCISCO J. ALDANA; DECLARATION OF MARY SALAZAR,**
13 **DECLARATION OF ELEAZAR SALAZAR [PROPOSED] ORDER**

14 By electronically using the CM/ECF system, which sent electronic notification of such filing to
15 all other parties appearing on the docket sheet; and / or by First Class Mail all other parties
16 Requesting special notice, as so designated.

17 Roshni Patel on behalf of Creditor U.S. Bank National Association
18 bknotice@mccarthyholthus.com

19 Matthew E. Podmenik on behalf of Creditor U.S. Bank National Association
20 mpodmenik@mccarthyholthus.com, rnguyen@mccarthyholthus.com

21 David L. Skelton
22 admin@ch13.sdcoxmail.com;dskelton13@ecf.epiqsystems.com

23 I declare under penalty of perjury under the laws of the United States that the foregoing
24 is true and correct.

25 Executed on September 9, 2011, at San Diego, California.

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27 Joanna Discar
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